



"Making it Happen... Through Operational Contracting"

61st CONS Newsletter – Autumn 2002

After a brief hiatus, we have resumed the publication of our quarterly newsletter. Its purpose is to enhance the acquisition process by ensuring all supported organizations and their personnel are sufficiently informed of appropriate regulatory and procedural requirements and current acquisition policies.

The information provided is not intended to be a substitute for regulatory guidance. In all cases when there may be a conflict between this newsletter and regulatory direction, the regulatory direction will be followed

ADVANCE CONTRACT PLANNING (ACP)

As a contracting customer, one of your key responsibilities is the timely and proper planning of your requirements.

"Acquisition planning", as defined by the Federal Acquisition Regulation (FAR), means the process by which the efforts of all people responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling your needs in a timely manner and at a reasonable cost.

To effectively manage the acquisitions programmed for any specific fiscal year, the 61st CONS operates and maintains an ACP Program. Every year, before the end of fiscal year, we establish and publish a listing of submission suspenses designed to accommodate the timely processing of all new and recurring contract requirements.

ACP procedures usually begin on or about 150 days prior to the end of fiscal year (around May 1st). Contracting will submit a letter to all using activities advising them of the established cutoff dates for receipt of purchase requests. In addition, the letter will require the customer to provide an AF Form 9, Request for Purchase, with complete specifications or purchase description, quantities, estimated cost, performance period, and required coordination (when necessary), for each individual requirement.

Conscientious ACP is perhaps the most important element in receiving accurate, efficient, and timely contracting support. Compliance with ACP requirements and procedures will go a long way toward guaranteeing you receive effective, efficient and timely contracting support during the upcoming fiscal year.

SOLE SOURCE/BRAND NAME JUSTIFICATIONS

SOLE SOURCE

The Federal Acquisition Regulation defines Full and Open Competition as "the process by which all responsible sources are permitted to compete". It further defines sole source as "a contract for the purchase of supplies or services that is entered into, or proposed to be entered into by an agency, after soliciting and negotiating with only one source".

Under Simplified Acquisition Procedures, if the price is considered fair and reasonable, competition is not required for any acquisition of supplies or services not exceeding \$2,500 (micro-purchases). When the acquisition falls between \$2,501 and \$100,000, however, a reasonable number of sources must be solicited, unless the contracting officer determines only one source is available.

Ordinarily three quotes would suffice for this type of acquisition. However, there are two primary reasons (among other possible reasons) for determining supplies or services are reasonably available from only one source:

- Urgency
- Only One Available Source

A sole source justification letter signed by the two-letter commander or equivalent must accompany customer's requests for sole source acquisitions. The justification must be attached to the purchase request when submitted to 61st CONS. After reviewing the justification letter,

the contracting officer will certify that the justification is accurate and complete to the best of their knowledge and belief. This certification will serve as written approval of the justification. The text of the letter must include:

- A brief nontechnical description of the supplies/services to be acquired.
- A clear and concise statement regarding the circumstances justifying the sole source position.

If "urgency" is cited as the justification, the letter must explain the mission requirement driving the time constraint and why only one contractor can meet the requirement. If the justification cites the unique capabilities possessed by only one contractor, state reasons why no other contractor has or can obtain these capabilities and why they are essential for contract performance. You should also state any other reasons that cannot practically be avoided for the exclusion of other potential sources.

The justification letter should include a concluding statement that the proposed sole source is the only known source that can satisfy the Government's requirements.

BRAND NAME

A Brand name requirement exists when the requisition only allows for one manufacturer's item to fill a customer's need. Like sole source requirements, brand name descriptions that specify a particular brand name, product, or feature of a product, peculiar to one manufacturer, do not provide for full and open competition. Consequently, a justification approved by the contracting officer is also required.

The justification letter must be signed by the commander of the requesting activity and must state as a minimum:

- Why is the item specified the only item that will fulfill the minimum essential needs of the government?

- If the item is a component part of a presently owned system, identify the end item and explain why no other part would be acceptable.
- A statement explaining adequate research was accomplished to determine that an acceptable substitute item is not available.

Bottom line, the justification must answer the question - Why should we preclude consideration of products manufactured by other companies?

By adding the word "**or equal**" to the brand name description, customers allow prospective contractors to offer products other than those referenced by their brand name. This provides for full and open competition, and does not require justification to support its use.

For additional information, see the 61st CONS Customer Guide or contact us at 3-0284.

UNAUTHORIZED ACTIONS

Contracting Officers (COs) are agents of the Government, authorized by Congress to obligate funds through contractual arrangements with commercial companies.

Only COs can solicit, negotiate, award, change, and terminate contracts. Your job may place you in a position to have occasional or frequent contact with industry. Remember any contact with a business entity, which causes that entity to perform a service or provide a commodity, even in the form of an equipment demonstration can potentially lead to a financial obligation. If you commit the government to pay for anything, even inadvertently or unsuspectingly, your action is not authorized.

You may be held liable for any charges claimed by the company and/or be subject to disciplinary action.

Consider the following example: A company official might ask you if you would like to sample a product during a phone discussion. If you were to accept the sample, you would be committing an unauthorized act if the company charged the Government for that sample. To

ensure you aren't trapped into a no win situation like this, refer these types of issues to the 61st CONS at 3-0284.

It is especially important for those of you who monitor a contractor's on-base performance to familiarize yourself with those contract so you don't ask for more or settle for less than is written in the contract. If you believe you may have committed an unauthorized act, ***notify the 61st CONS immediately.*** We will have to follow specific procedures in order to ratify (approve) unauthorized acts for the purpose of paying for the goods or services delivered. The longer you wait, the more it may be costing the Government. You and your Commander will have to prepare certain documents to request a ratification and have it approved by 61 CONS/CC (up to \$2,500), SMC/CC (up to \$25,000) or HQ AFSPC/CV (above \$25,000). For additional information contact us at 3-0284.

GOVERNMENT-WIDE PURCHASE CARD (GPC)

The GPC is the preferred method of purchasing over-the-counter commercial items for commodities (including some HAZMAT) and non-personal services. Examples of items that can be procured with the GPC include: office supplies, computer hardware & software, self-help materials, conference room rental, equipment rental and one-time equipment repair, etc.

Micro-purchase authority (\$2,500 or less) for purchasing commercial items has been delegated to the cardholders. You are expected to ensure a reasonable price is paid for the items and to distribute purchases equitably among qualified suppliers. Though the 61st CONS operates and administers the program, 61 ABC/CC has the overall responsibility for it. The Installation Purchase Card Program Manager is responsible for training, providing guidance to cardholders and their billing officials, monitoring to ensure proper card usage (e.g. no splitting requirements), administration & system maintenance, and canceling and/or suspending card usage as a result of violations. Authority to make purchases using the GPC is granted only after designated individuals have attended the

required training and have been issued a letter of procurement delegation from us.

PREPARATION & REVIEW OF ITEM DESCRIPTIONS/WORK STATEMENTS

When purchasing commercial items, one is allowed to use Purchase Descriptions rather than military or other Government specifications to describe his/her needs. You must state your "minimum" requirements in order to stimulate competition. The most important job you have in the acquisition process is to tell us what you need. Potential contractors must be able to identify the items you require in order to accurately quote prices and delivery periods. Federal acquisition policy dictates that purchase descriptions shall, whenever practicable, be stated in terms of functions to be performed, or the level of performance required. Further, purchase descriptions shall not specify a product, or a particular feature of a product peculiar to one manufacturer, so that another manufacturer's product is eliminated from consideration unless it is determined that the feature is essential to your needs and other similar products, that do not have the feature, will not meet your requirements.

To make such a determination, we will need a justification for purchasing sole source. The minimum acceptable purchase description is to identify a brand name followed by the words "or equal". This type of description should be used only when an adequate detailed description cannot feasibly be obtained or produced for your current requirements. "Brand Name or Equal" purchase descriptions should stipulate the outstanding and important physical, functional, and/or any other characteristic, which is essential to your needs. These purchase descriptions will contain the following information to the extent available to describe the required item:

- Complete common (generic) identification.
- Class Code in the upper right corner.
- Applicable model, make, or catalog number for each brand name product known to be acceptable, and identity of

the commercial catalog in which it appears.

- Name of two or more manufacturers, producers, or distributors of the product referenced.
- When only one brand name will do the job, a sole source justification shall be furnished.

When possible, add the following detail to your purchase description:

- Acceptable kinds of material alternatives such as type and grade.
- Minimum & maximum acceptable dimensions, sizes, or capabilities.
- Principles of operation.
- Electrical data.
- Restrictive environmental conditions.
- Intended use, including location within an assembly, and essential operating conditions.
- Equipment with which the item is to be used.
- Other pertinent information that further describes the commodity, equipment, or service required.

When a Brand Name product is required (only one manufacturer's part or model number), you must submit a mission impact statement justifying this request. To justify such a request, you must adequately articulate the technical requirement that precludes the use of full and open competition. The mission impact statement must identify the directive that precludes competition. As stated earlier in this newsletter, "Brand Name and "Sole Source" requirements are not the same. Often, brand name commodities are available from several sources. Therefore, sole source PR support documentation is not required for brand name PRs unless the specific brand is available from only one source. More detailed guidance on this area can be found in FAR Part 11, Describing Agency Needs.

**DO's AND DON'TS FOR AIR FORCE
PERSONNEL DEALING WITH COMMERCIAL
INDUSTRY**

DO read the contract so you can ensure the contractor completes all work as required, and so you can refrain from asking the contractor for anything more than the contract states. When you notice possible cost overruns or shortfalls on contracts, notify 61st CONS immediately.

DO remember that only Contracting Officers, acting within their prescribed authority, may enter into contractual arrangements on behalf of the Government.

Do contact the Contracting Officer to discuss and obtain action on any matter related to any proposed or required contract changes.

Do provide the Contracting Officer a courtesy copy of any correspondence to contractors whose contracts are administered by 61st CONS.

Do inform the Contracting Officer immediately of any discrepancies noted during inspections so the contractor can be officially notified and corrective action can begin promptly.

Do use common sense and good judgment in developing friendships with contractor personnel.

Do periodically review the requirements of DODD 5500.7, Standards of Conduct. Report possible violations or conflicts of interest to the Los Angeles AFB Designated Agency Ethics Official, Staff Judge Advocate (SMC/JA).

Do refrain from expressing any position on the merits of a labor-management dispute between contractors and employees.

Do consult the SMC/JA when a contractor, with whom you have officially dealt, contacts you concerning future employment; or, consult the SMC/JA before you contact such contractors about future employment.

Do disqualify yourself from participation in the acquisition process, in writing, **before** entering into employment discussions with any entity with which you now do official business, or are likely to in the future.

Don't accept, solicit, or agree to accept (even indirectly) anything of value in return for being

influenced in the performance of official responsibilities.

Don't use your Air force position to obtain any personal advantage for yourself or others, including discounts on merchandise in exchange for favors.

Don't contact industry representatives, except in on-going contracts where you are acting as a Quality Assurance Personnel (QAP) or inspector, without first seeking assistance and advice from a Contracting Officer or SMC/JA.

PERFORMANCE WORK STATEMENT (PWS)

A FI 63-124 will explain how to write and use a PWS. The overall objective is to standardize PWS formats, terms, and to provide a logical systematic approach to stipulate requirements. These requirements are mandatory and apply to contracts for all LAAFB base-level operations and maintenance service contracts expected to exceed \$100,000. With valid rationale, exceptions to the use of AFMAN 64-108 may be granted. As a minimum, an exception has to be based on a valid need to describe how a contractor will perform a service in detail. It also includes performance standards and requirements so the contractor knows exactly what he must do to perform satisfactorily. An important aspect of this type of PWS is that it views quality control as a contractor responsibility. In fact, the contractor is required to prepare and submit a Quality Control Plan for our review and acceptance at the onset of performance. Surveillance personnel periodically review contractor records to ensure compliance with the accepted plan. References to Air Force regulations in the PWS should be held to a minimum. Don't stipulate that a contractor must comply with an entire regulation when, in fact, there is only one chapter or paragraph which concerns the contractor. The PWS must not contain detailed Air Force (in-house) procedures unless absolutely necessary. This merely adds bulk to the PWS. The most qualified personnel available should write the PWS.

OBTAINING AN INDEPENDENT GOVERNMENT ESTIMATE

Ideally, a government estimate of the cost of a particular commodity, service, or construction project should be "independent". This means the office generating the requirement should give contracting an estimate based upon government sources, **NOT** based upon outside or contractor estimates. An independent government estimate can be as simple as a price from a previous government purchase of the same service or commodity. Simply calling a contractor on the phone to get an estimate and then stating the quoted price as the independent government estimate is not sufficient or acceptable. Whenever possible, every effort should be taken by the requiring agent to obtain an estimate independently.

MISCELLANEOUS

Your comments and suggestions for improvements or topics for discussion are cordially invited. Forward them to 61 CONS/LGCP, Attn: Hazel Lowe, 2420 Vela Way, Ste 1467, El Segundo, CA 90245-4659 or contact us at (310) 363-2692

Copies of this newsletter as well as other subject information is available on the 61st CONS Home Page, which can be located at <http://www.losangeles.af.mil/SMC/PK/PKHOME/PKO/home.htm>